

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PCT05B01	FOR FURTHER ACTION		See item 4 below
International application No. PCT/JP2005/016824	International filing date (<i>day/month/year</i>) 13 September 2005 (13.09.2005)	Priority date (<i>day/month/year</i>) 14 September 2004 (14.09.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant HOSODA SHC INC.			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

		Date of issuance of this report 20 March 2007 (20.03.2007)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Yoshiko Kuwahara e-mail: pt07.pct@wipo.int	

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

TRANSLATION
PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

<p>Applicant's or agent's file reference PCT05B01</p>		<p>Date of mailing (day/month/year)</p>	
<p>International application No. PCT/JP2005/016824</p>		<p>FOR FURTHER ACTION See paragraph 2 below</p>	
<p>International Patent Classification (IPC) or both national classification and IPC</p>		<p>Priority date (day/month/year) 14.09.2004</p>	
<p>Applicant HOSODA SHC INC.</p>			

<p>1. This opinion contains indications relating to the following items:</p> <table style="margin-left: 20px; border: none;"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the opinion</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<p>2. FURTHER ACTION</p> <p>If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.</p> <p>If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.</p> <p>For further options, see Form PCT/ISA/220.</p>																										
<p>3. For further details, see notes to Form PCT/ISA/220.</p>																										

Name and mailing address of the ISA/JP	Date of completion of this opinion	Authorized officer
Facsimile No.		Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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PCT/JP2005/016824

Box No. I	Basis of this opinion
<p>1. With regard to the language, this opinion has been established on the basis of:</p> <p><input checked="" type="checkbox"/> the international application in the language in which it was filed</p> <p><input type="checkbox"/> the translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rule 12.3(a) and 23.1(b)).</p> <p>2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> on paper</p> <p><input type="checkbox"/> in electronic form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed</p> <p><input type="checkbox"/> filed together with the international application in electronic form</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search</p> <p>3. <input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p> <p>4. Additional comments:</p>	

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Box No. IV Lack of unity of invention

1. In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit:
 - paid additional fees
 - paid additional fees under protest and, where applicable, the protest fee
 - paid additional fees under protest but the applicable protest fee was not paid
 - not paid additional fees
2. This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
 - complied with
 - not complied with for the following reasons:

The matter common to claims 1-9 is a Gnetum extract.

As a result of survey, however, the Gnetum extract and cosmetic products containing the said extract have been found not to be novel, since they are disclosed in document 1 [JP 2002-080372 A (L'Oreal), 19 March, 2002 (19.03.02), & EP 1175888 A2, & CA 2354107 A1, & FR 2812195 A1, & US 2002/0051799 A1] and document 2 [JP 11-060450 A (Sunstar Inc.) 1999.03.02 (Family: none)].

Since the common matter belongs to the prior art, it is not a special technical feature in the sense of the second sentence of PCT Rule 13.2.

Therefore, there is no matter common to all of the claims, and the aforesaid groups of subject matters are not considered to be a group of inventions so linked as to form a single general inventive concept.

However, no payment of additional fees is required since we were able to finish our survey on all the claims requiring research without incurring the need to invite the applicant to pay such additional fees.

4. Consequently, this opinion has been established in respect of the following parts of the international application:

- all parts
- the parts relating to claims Nos. _____

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY			International application No. PCT/JP2005/016824																								
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																										
<p>1. Statement</p> <table> <tr> <td>Novelty (N)</td> <td>Claims</td> <td>2 - 8</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td>1 , 9</td> <td>NO</td> </tr> <tr> <td>Inventive step (IS)</td> <td>Claims</td> <td></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td>1 - 9</td> <td>NO</td> </tr> <tr> <td>Industrial applicability (IA)</td> <td>Claims</td> <td>1 - 9</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> </table>				Novelty (N)	Claims	2 - 8	YES		Claims	1 , 9	NO	Inventive step (IS)	Claims		YES		Claims	1 - 9	NO	Industrial applicability (IA)	Claims	1 - 9	YES		Claims		NO
Novelty (N)	Claims	2 - 8	YES																								
	Claims	1 , 9	NO																								
Inventive step (IS)	Claims		YES																								
	Claims	1 - 9	NO																								
Industrial applicability (IA)	Claims	1 - 9	YES																								
	Claims		NO																								
<p>2. Citations and explanations:</p> <p>Document 1: Shiv K., et al., Cyclopropene fatty acids in <i>Gnetum gnemon</i> (L.) seeds and leaves, <i>J.Sci.Food Agric.</i> (1980), Vol. 31, No. 7, pages 657-662</p> <p>Document 2: E. U. Isong et al., Nutritional and phytotherapeutic studies of three varieties of <i>Gnetum africanum</i> ('afang')., <i>Food Chemistry</i> (1999), Vol. 64, pages 489-493</p> <p>Document 3: Iliya I. et al., Three new trimeric stilbenes from <i>Gnetum gnemon</i>., <i>Chem. Pharm. Bull. (Tokyo)</i>. (2003), Vol. 51, No. 1, pages 85-88</p> <p>Document 4: JP, 2002-080372, A (L'Oreal), 19 March, 2002 (19.03.02), & EP 1175888, A2, & CA 2354107, A1, & FR 2812195, A1, & US 2002/0051799, A1</p> <p>Document 5: JP, 11-060450, A (Sunstar Inc.) 2 March, 1999 (02.03.99) (Family: none)</p> <p>Claim 1: The subject matter of claim 1 does not appear to be novel in view of document 1. Document 1 discloses that the seed in the hull of <i>Gnetum</i> is roasted or boiled and unhusked before consumption, and that the seed is crushed to make cakes, biscuits, and emping, and that cyclopropene fatty acid (CPFA) has been obtained from an ester extract of <i>Gnetum</i>.</p> <p>Claims 1-8: The subject matters of claims 1-8 do not appear to involve an inventive step in view of documents 1-3. Document 2 describes the differences in nutritional compositions among different kinds of <i>Gnetum</i>, and also that feeding rats with a diet containing <i>Gnetum</i> leaves has demonstrated better nutritional results. Document 3 describes that <i>Gnetum</i> has been found to be a significant functional food from the fact that a novel compound with superoxide scavenging activity has been discovered by extracting <i>Gnetum</i> roots using acetone and methanol, and further from the fact that, apart from the newly found compound, <i>Gnetum</i> exhibits a variety of other superoxide scavenging activities and such effects as a lipid peroxide inhibition effect, blood sugar count suppression effect, and anti-inflammatory effect. The consumption of <i>Gnetum</i> seeds is considered to have been well known prior to the filing date of the present application (see the background art of the present specification and document 1). So, a person skilled in the art could have easily conceived of extracting an essence from <i>Gnetum</i> seeds, as well as adding the essence to various foods for nutritional enhancement, using a compound liquid of ethanol and water, which is widely known to be used for extracting active ingredients from</p>																											

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/JP2005/016824
Box No. V	Reasoned statement under Rule 43bis.1(e)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
<p>such natural products as plants, on the assumption that, since documents 1-3 respectively describe that Gnetum seeds, leaves, and roots exert physiological activities, Gnetum seeds too should contain the same active ingredients as those found in the leaves and roots.</p> <p>Meanwhile, the effect of the subject matters of claims 1-8 is considered to be such that a person skilled in the art could have predicted.</p> <p>Claim 9: The subject matter of claim 9 does not appear to be novel in view of document 4. Document 4 also describes that a composition containing glycosylated hydroxystilbene extracted from plants of the Gnetum family is used for protecting the skin from pigment deposition, for preventing signs of aging of the skin and hair follicle, for improving the complexion of the face, for smoothening the facial skin, for preventing or taking care of lines and fine-wrinkles, and for activating the epidermal regeneration process.</p> <p>Claim 9: The subject matter of claim 9 does not appear to be novel in view of document 5. Document 5 describes a hair-growing cosmetic containing an extraction liquid of a plant of the genus Gnetum of the Gnetum family. This hair-growing cosmetic cannot be distinguished from the cosmetic of claim 9 of the present application as there is a description, "the health-promoting functions include...growing hair and preventing fallen hair", in paragraph number [0039] of the present specification.</p>		

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International application No.
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Box No. VI	Certain documents cited			
1. Certain published documents (Rule 43bis.1 and 70.10)				
Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)	
JP 2005-023000 A [EX]	27.01.2005	30.06.2003		
2. Non-written disclosures (Rule 43bis.1 and 70.9)				
Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)		